

AMENDED IN ASSEMBLY AUGUST 24, 2006

AMENDED IN ASSEMBLY JUNE 22, 2006

AMENDED IN ASSEMBLY JUNE 14, 2006

AMENDED IN SENATE MAY 1, 2006

AMENDED IN SENATE APRIL 18, 2006

**SENATE BILL**

**No. 1724**

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**Introduced by Senator Runner**

February 24, 2006

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An act to amend Sections 900.2 and 915 of, and to add Sections 905.9 and 912.5 to, the Government Code, and to amend Section 10295.1 of the Public Contract Code, relating to the California State University.

LEGISLATIVE COUNSEL'S DIGEST

SB 1724, as amended, Runner. California State University.

(1) Existing law, the Tort Claims Act, sets forth, among other things, the procedures for filing a claim against a statewide public entity. The act specifies that a claim against the state is to be filed with the Victim Compensation and Government Claims Board, unless the claim is against a judicial branch entity or judge of one of those entities, in which case the claim is filed with the Judicial Council.

This bill would also exempt claims against the California State University from the requirement that a claim against the state be filed with the Victim Compensation and Government Claims Board. The bill would instead require that claims against the California State University be filed with the Trustees of the California State University.

(2) Existing law prohibits, except under specified circumstances, a state department or agency, as defined, from contracting with a vendor, contractor, or an affiliate of a vendor or contractor, unless that vendor or contractor, and all of its affiliates that make sales for deliveries into California, are holders of a California seller's permit issued as prescribed. Existing law defines "state department or agency," for these purposes, to include every state office, department, division, bureau, board, commission, and the California State University, and to exclude the University of California, the Legislature, the courts, and any agency in the judicial branch of government.

This bill would also exclude the California State University from this prohibition.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 900.2 of the Government Code is~~  
2     ~~amended to read:~~  
3     ~~900.2. "Board" means:~~  
4     ~~(a) In the case of a local public entity, the governing body of~~  
5     ~~the local public entity.~~  
6     ~~(b) In the case of the state, except as provided by subdivisions~~  
7     ~~(c) and (d), the Victim Compensation and Government Claims~~  
8     ~~Board.~~  
9     ~~(c) In the case of a judicial branch entity or judge of one of~~  
10    ~~those entities, the Judicial Council.~~  
11    ~~(d) In the case of the California State University, the Trustees~~  
12    ~~of the California State University.~~  
13    ~~SEC. 2. Section 905.9 is added to the Government Code, to~~  
14    ~~read:~~  
15    ~~905.9. All claims against the California State University for~~  
16    ~~money or damages based upon an express contract or for an~~  
17    ~~injury for which the Trustees of the California State University is~~  
18    ~~liable shall be presented in accordance with Chapter 1~~  
19    ~~(commencing with Section 900) and Chapter 2 (commencing~~  
20    ~~with Section 910).~~  
21    ~~SEC. 3. Section 912.5 is added to the Government Code, to~~  
22    ~~read:~~

1     ~~912.5. The Trustees of the California State University shall~~  
2 ~~act on a claim against the California State University.~~

3     ~~SEC. 4. Section 915 of the Government Code is amended to~~  
4 ~~read:~~

5     ~~915. (a) A claim, any amendment thereto, or an application~~  
6 ~~to the public entity for leave to present a late claim shall be~~  
7 ~~presented to a local public entity by either of the following~~  
8 ~~means:~~

9     ~~(1) Delivering it to the clerk, secretary or auditor thereof.~~

10    ~~(2) Mailing it to the clerk, secretary, auditor, or to the~~  
11 ~~governing body at its principal office.~~

12    ~~(b) Except as provided in subdivisions (c) and (d), a claim, any~~  
13 ~~amendment thereto, or an application for leave to file a late claim~~  
14 ~~shall be presented to the state by either of the following means:~~

15    ~~(1) Delivering it to an office of the Victim Compensation and~~  
16 ~~Government Claims Board.~~

17    ~~(2) Mailing it to the Victim Compensation and Government~~  
18 ~~Claims Board at its principal office.~~

19    ~~(c) A claim, any amendment thereto, or an application for~~  
20 ~~leave to file a late claim shall be presented to a judicial branch~~  
21 ~~entity in accordance with the following means:~~

22    ~~(1) Delivering or mailing it to the court executive officer, if~~  
23 ~~against a superior court or a judge, court executive officer, or~~  
24 ~~trial court employee, as defined in Section 811.9, of that court.~~

25    ~~(2) Delivering or mailing it to the clerk/administrator of the~~  
26 ~~court of appeals, if against a court of appeals or a judge of that~~  
27 ~~court.~~

28    ~~(3) Delivering or mailing it to the Clerk of the Supreme Court,~~  
29 ~~if against the Supreme Court or a judge of that court.~~

30    ~~(4) Delivering or mailing it to the Secretariat of the Judicial~~  
31 ~~Council, if against the Judicial Council or the Administrative~~  
32 ~~Office of the Courts.~~

33    ~~(d) A claim, any amendment thereto, or an application for~~  
34 ~~leave to file a late claim shall be presented to the Trustees of the~~  
35 ~~California State University in accordance with either of the~~  
36 ~~following:~~

37    ~~(1) Delivering to the Office of Risk Management at the~~  
38 ~~chancellor's office.~~

39    ~~(2) Mailing to the Office of Risk Management at the~~  
40 ~~chancellor's office.~~

1     ~~(e) A claim, amendment or application shall be deemed to~~  
2     ~~have been presented in compliance with this section even though~~  
3     ~~it is not delivered or mailed as provided in this section if it is~~  
4     ~~actually received by the clerk, secretary, auditor or board of the~~  
5     ~~local public entity, is actually received at an office of the Victim~~  
6     ~~Compensation and Government Claims Board, if against the~~  
7     ~~California State University, it is actually received by the Trustees~~  
8     ~~of the California State University, or, if against a judicial branch~~  
9     ~~entity or judge, it is actually received by the court executive~~  
10    ~~officer, court clerk/administrator, court clerk, or secretariat of the~~  
11    ~~judicial branch entity, within the time prescribed for presentation~~  
12    ~~thereof.~~

13    ~~(f) A claim, amendment or application shall be deemed to~~  
14    ~~have been presented in compliance with this section to a public~~  
15    ~~agency as defined in Section 53050 if it is delivered or mailed~~  
16    ~~within the time prescribed for presentation thereof in conformity~~  
17    ~~with the information contained in the statement in the Roster of~~  
18    ~~Public Agencies pertaining to that public agency which is on file~~  
19    ~~at the time the claim, amendment or application is delivered or~~  
20    ~~mailed. As used in this subdivision, “statement in the Roster of~~  
21    ~~Public Agencies” means the statement or amended statement in~~  
22    ~~the Roster of Public Agencies in the office of the Secretary of~~  
23    ~~State or in the office of the county clerk of any county in which~~  
24    ~~the statement or amended statement is on file.~~

25    ~~SEC. 5.~~

26    ~~SECTION 1.~~ Section 10295.1 of the Public Contract Code is  
27    ~~amended to read:~~

28    10295.1. (a) A state department or agency shall not contract  
29    for the purchase of tangible personal property from a vendor,  
30    contractor, or an affiliate of a vendor or contractor, unless that  
31    vendor, contractor, and all of its affiliates that make sales for  
32    delivery into California are holders of a California seller’s permit  
33    issued pursuant to Article 2 (commencing with Section 6066) of  
34    Chapter 2 of Part 1 of Division 2 of the Revenue and Taxation  
35    Code, or are holders of a certificate of registration issued  
36    pursuant to Section 6226 of the Revenue and Taxation Code. A  
37    vendor or contractor that sells tangible personal property to a  
38    state department or agency, and each affiliate of that vendor or  
39    contractor that makes sales for delivery into California, shall be  
40    regarded as a “retailer engaged in business in this state,” and

1 shall be required to collect the California sales or use tax on all  
2 its sales into the state in accordance with Part 1 (commencing  
3 with Section 6001) of Division 2 of the Revenue and Taxation  
4 Code.

5 (b) Beginning on and after January 1, 2004, each vendor,  
6 contractor, or affiliate of a vendor or contractor that is offered a  
7 contract to do business with a state department or state agency  
8 shall submit to that state department or agency a copy, as  
9 applicable, of that retailer's seller's permit or certificate of  
10 registration, and a copy of each of the retailer's applicable  
11 affiliate's seller's permit or certificate of registration, as  
12 described in subdivision (a). This subdivision does not apply to a  
13 credit card purchase of goods of two thousand five hundred  
14 dollars (\$2,500) or less. The total amount of exemption  
15 authorized herein shall not exceed seven thousand five hundred  
16 dollars (\$7,500) per year for each company from which a state  
17 agency is purchasing goods by credit card. It shall be the  
18 responsibility of each state agency to monitor the use of this  
19 exemption and adhere to these restrictions on these purchases.

20 (c) A state department or state agency is exempted from the  
21 provisions of subdivision (a) if the executive director of that state  
22 department or agency, or his or her designee, makes a written  
23 finding that the contract is necessary to meet a compelling state  
24 interest.

25 (d) For the purposes of this section:

26 (1) "Affiliate of the vendor or contractor" means any person or  
27 entity that is controlled by, or is under common control of, a  
28 vendor or contractor through stock ownership or any other  
29 affiliation.

30 (2) "Compelling state interest" includes, but is not necessarily  
31 limited to, the following:

32 (A) Ensuring the provision of essential services.

33 (B) Ensuring the public health, safety, and welfare.

34 (C) Responding to an emergency, as defined in Section 1102.

35 (3) "State department or agency" means every state office,  
36 department, division, bureau, board, and commission, but does  
37 not include the University of California, the California State

- 1 University, the Legislature, the courts, and any agency in the
- 2 judicial branch of government.

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